

resulting from the use of any CDS or other substance, whether legal or illegal, that could affect his practice. He was further directed to provide to the Board reports from mental health professionals regarding respondent's treatment for his disability, and provide a report from the New Jersey Dental Association Chemical Dependency Program or other entity detailing his involvement with that entity.

The Board has now received the report from William Keene, D.D.S., M.A., Director of the New Jersey Dental Association Chemical Dependency Program, regarding respondent's participation in the Pennsylvania counterpart of the Chemical Dependency Program, as well as a report from respondent's treating psychologist, Howard Horwitz, Ph.D., who addressed respondent's treatment for addiction. Those reports support the conclusion that, with restrictions and continued monitoring and therapy, respondent may practice dentistry consistent with public health, safety, and welfare.

Based on the information submitted, the Board has determined that respondent may have his license reinstated subject to the conditions outlined in this order. Respondent appears to be in recovery at this time. The Board is aware that respondent's recovery is in its early stages and, as such, will not tolerate any deviation from the terms of this order. The Board finds that the restrictions placed on respondent's practice by this order are

adequate to protect the health and welfare of the public, and that good cause exists for entry of this order:

IT IS ON THIS 4th DAY OF APRIL, 2001

ORDERED:

1. (a.) Respondent shall be subject to random urine monitoring no fewer than four (4) times a month at a laboratory facility designated by the Board to continue until further order of the Board expressly reducing or discontinuing testing. Respondent shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b.) All test results shall be provided to Kevin B. Earle, Executive Director of the Board, or his designee in the event he is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different

methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c.) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Kevin B. Earle, or his designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d.) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

2. Respondent shall continue in counseling, at his own expense, not less than once a per week with his treating psychotherapist. Respondent shall be responsible for ensuring that the treating psychologist and any other person(s) providing therapy for his addiction provide the Board with quarterly reports regarding his progress in counseling.

3. Respondent shall attend support groups, including NA or AA not less than four (4) times per week. Respondent shall provide evidence of attendance at such groups directly to the Board. If respondent has discontinued attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

4. Respondent shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

5. Respondent shall be permitted to prescribe controlled dangerous substances for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

- a) Respondent shall use sequentially numbered, triplicate prescription pads for all prescriptions written.
- b) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, attention Kevin B. Earle, Executive Director, on a monthly basis no later than the fifth day of each month for all prescriptions written in the previous month. The first submission shall be due no later than May 1, 2001, for all prescriptions written in April 2001 starting on the entry date of this Order.
- c) Respondent shall be required to account for each consecutive number, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.
- d) All controlled dangerous substances maintained in the office in which respondent is employed shall be maintained in a locked cabinet, to which respondent shall

not have access, and provided to respondent upon his orders for use with a particular patient by a licensed dentist, dental hygienist, or registered dental assistant who shall then witness the administration of the medication by respondent pursuant to the provisions of paragraph 5(e) and (f) below.

(e) The licensed dentist, dental hygienist or registered dental assistant witnessing the administration of the controlled dangerous substance shall initial the patient treatment note entered in the chart indicating the medication and dosage given.

(f) In the event that respondent wastes any medication from a pre-measured syringe prior to administering that medication to a patient, he shall make a separate entry in the treatment record noting the medication, the amount administered and the amount wasted. The licensed dentist, dental hygienist, or registered dental assistant witnessing the administration of medication shall also initial this treatment note.

6. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. With regard to any requirement for submission of the quarterly reports to the

Board, the beginning of the first quarter is deemed to have commenced May 1, 2001.

7. Respondent shall not practice as a solo practitioner and agrees to practice dentistry in affiliation with a dentist licensed by this Board, who shall be in a position to monitor respondent's practice of dentistry.

(a.) Respondent shall submit the name of the supervising dentist to the Board for approval prior to engaging in practice.

(b.) Respondent shall provide to the supervising dentist a copy of this Order and any further orders of the Board related to respondent.

(c.) Respondent shall provide to the Board a signed statement by the supervising dentist in which he accepts responsibility for his or her role as supervising dentist and agrees to comply with responsibilities imposed by this order.

(d.) Respondent shall be responsible for ensuring that the supervising dentist prepares and submits quarterly reports detailing respondent's practice of dentistry and specifically addressing any conduct suggestive of recurrence of drug abuse.

(e.) Respondent agrees that the supervising dentist shall immediately report any relapses or suspected relapses by respondent to the Board of Dentistry within twenty-four (24) hours thereof. Respondent shall immediately report and obtain Board approval before any change in affiliation with his supervising dentist.

8. (a) Upon reinstatement, respondent shall be subject to an order of automatic suspension of license upon the Board's receipt of any information which the Board, in its sole

discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions herein, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

(b) Respondent shall have a limited right to apply for removal of the automatic suspension which may be filed with the Board within two (2) days of receiving notice of the automatic suspension. Any confirmed positive urine shall be presumed valid, and respondent may only contest the chain of custody.

9. Respondent may apply for modification of the terms of this order not sooner than one year following its entry, except that the Board will consider recommendations from respondent's treating psychologist regarding modification of his counseling regime as appropriate. Prior to considering modification of the terms of the order, the Board may require respondent to submit to an independent psychiatric or other medical examination and have the results of that examination provided to the Board.

10. Respondent shall pay costs associated with this matter in the amount of set forth in an affidavit of costs to be provided to respondent within 60 days following the entry of this

order. Costs shall be paid by certified check or money order,
payable to the State of New Jersey and forwarded to Kevin B. Earle,
Executive Director, State Board of Dentistry, P.O. Box 45005,
Newark, New Jersey 07101.

New Jersey Board of Dentistry

By: Barbara Ann Rich, DDS
Barbara A. Rich, D.D.S.
President